THE ATTORNEY GENERAL OF TEXAS

AUSTIN, TEXAS 78711

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ATTORNEY GENERAL

April 25, 1973

The Honorable Charles F. Herring
Chairman, Jurisprudence Committee
Texas State Senate
Austin, Texas

Letter Advisory No. 15

Re: The constitutionality of Senate Bill 499 relating to the Crosby Municipal Utility District of Harris County, Texas

Dear Senator Herring:

Article 8280-315, Vernon's Texas Civil Statutes (Acts 1965, 59th Leg., Ch. 554, p. 1198) creates the Crosby Municipal Utility District of Harris County, Texas. Proposed Senate Bill 499 would ratify and validate the creation and organization of the District and all proceedings and actions which have been taken by it since the time of its creation.

Although the Act applies only to one district it has been expressly held that acts creating districts under Section 59 of Article 16 are not special laws and do not violate the prohibition of Section 56 of Article 3 of our Constitution against local or special laws.

The purpose of Senate Bill 499 is to validate the creation of the District and all acts which it has taken since that time including the issuance of bonds. Our courts have consistently upheld the authority of the Legislature to enact validating acts such as this and they have specifically held that such acts will validate bonds issued and assumed by a district even though, at the time the bonds were issued, the district had been invalidly created.

It is likewise held that validating acts do not violate the provisions of Section 16 of Article 1 of the Constitution against retroactive legislation, holding that it prohibits retroactive laws only insofar as they destroy or impair vested rights.

Your request for our opinion asks that we advise you as to whether Senate Bill 499 is constitutional, not overbroad and in compliance with the policies of our office. Our answer is that, in our opinion, it is not

unconstitutional, is sufficiently limited in its scope and is in compliance with the policies of our office.

Our opinion finds support in the following authorities: Hunt v. Atkinson, 17 S. W. 2d 780 (Tex. Com. App. 1929); Lyford Independent School District v. Willamar Independent School District, 34 S. W. 2d 854 (Tex. Com. App. 1931); Jamison v. City of Pearland, 401 S. W. 2d 322 (Tex. Civ. App., Waco, 1966, no writ); Deacon v. City of Euless, 405 S. W. 2d 59 (Tex. 1966); Lower Colorado River Authority v. McCraw, 83 S. W. 2d 629 (Tex. 1935); Smith v. State, 418 S. W. 2d 893 (Tex. Civ. App., Austin, 1967, no writ); International Security Life Insurance Co. v. Maas, 458 S. W. 2d 484 (Tex. Civ. App., Houston, 1970 err. ref., n. r. e.).

Very truly yours,

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APPROVED:

LARRY F. YORK, First Assistant

DAVID M. KENDALL, Chairman
Opinion Committee